

State of Arizona  
House of Representatives  
Forty-eighth Legislature  
First Regular Session  
2007

# HOUSE BILL 2753

AN ACT

AMENDING SECTIONS 28-3318, 28-3511, 28-3512, 28-3513, 28-3514, 28-3515 AND 41-1752, ARIZONA REVISED STATUTES; AMENDING TITLE 28, CHAPTER 8, ARTICLE 9, ARIZONA REVISED STATUTES, BY ADDING SECTION 28-3516; RELATING TO DRIVER LICENSE ENFORCEMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 28-3318, Arizona Revised Statutes, is amended to  
3 read:

4 28-3318. Service of notice: definition

5 A. The department shall provide written notice to a person possessing  
6 a driver license, to an unlicensed driver or to a nonresident driver of the  
7 following:

8 1. A suspension, revocation, cancellation, disqualification or  
9 certified ignition interlock device limitation of the license or privilege to  
10 operate a motor vehicle.

11 2. Required attendance at training and education sessions.

12 B. The department may include additional information in the written  
13 notice developed in consultation with the director of the department of  
14 public safety as prescribed in section 28-1462 regarding certified ignition  
15 interlock devices.

16 C. The department shall send the notice by **CERTIFIED** mail, **RETURN**  
17 **RECEIPT REQUESTED** to the address provided to the department on the licensee's  
18 application or provided to the department pursuant to section 28-448. If an  
19 address has not been provided to the department as provided in this  
20 subsection, the department shall send the notice to any address known to the  
21 department, including the address listed on a traffic citation received by  
22 the department.

23 ~~D. Service of the notice provided by this section is complete on~~  
24 ~~mailing. The department shall provide further service of notice only if the~~  
25 ~~department is notified of a change of address pursuant to section 28-448.~~  
26 **NOTICE PURSUANT TO THIS SECTION IS EFFECTIVE ONLY IF THE PERSON FOR WHOM THE**  
27 **NOTICE IS INTENDED CERTIFIES DELIVERY OF THE NOTICE BY THE PERSON'S**  
28 **SIGNATURE.**

29 E. Compliance with the mailing provisions of this section constitutes  
30 notice of the suspension, revocation, cancellation, disqualification or  
31 certified ignition interlock device limitation for purposes of prosecution  
32 under section 28-1383, 28-3473 or 28-1464. ~~The state is not required to~~  
33 ~~prove actual receipt of the notice or actual knowledge of the suspension,~~  
34 ~~revocation, cancellation, disqualification or certified ignition interlock~~  
35 ~~device limitation.~~

36 F. Compliance with the mailing provisions of this section constitutes  
37 notice of suspension or restriction for the purposes of suspension or  
38 restriction under section 28-3320. ~~The state is not required to prove actual~~  
39 ~~receipt of the notice or actual knowledge of the suspension or restriction.~~

40 G. For the purposes of this section, "certified ignition interlock  
41 device" has the same meaning prescribed in section 28-1301.

1           Sec. 2. Section 28-3511, Arizona Revised Statutes, is amended to read:  
2           28-3511. Removal and immobilization or impoundment of vehicle

3           A. A peace officer shall cause the removal and either immobilization  
4 or impoundment of a vehicle if the peace officer determines that a person is  
5 driving the vehicle while ~~any~~ EITHER of the following applies:

6           1. The person's driving privilege is CANCELED, SUSPENDED OR revoked  
7 for any reason AND THE PERSON DRIVING THE VEHICLE IS A REGISTERED OWNER OF  
8 THE VEHICLE. THIS PARAGRAPH APPLIES ONLY IF THE DEPARTMENT HAS NOTIFIED THE  
9 PERSON OF A CANCELLATION, REVOCATION OR SUSPENSION PURSUANT TO SECTION  
10 28-3318.

11           ~~2. The person's driving privilege is suspended because of a driving~~  
12 ~~under the influence conviction.~~

13           ~~3. The person's driving privilege is suspended pursuant to the~~  
14 ~~department's action based on a previous conviction for a violation of section~~  
15 ~~28-3473.~~

16           ~~4. The person's driving privilege is suspended pursuant to section~~  
17 ~~28-3306, subsection A, paragraph 3.~~

18           ~~5. 2. According to department records~~ The person has not ever been  
19 issued a VALID driver license or permit BY THIS STATE and the person does not  
20 produce evidence of EVER HAVING a VALID driver license OR PERMIT issued by  
21 another jurisdiction.

22           3. THE PERSON IS SUBJECT TO AN IGNITION INTERLOCK DEVICE REQUIREMENT  
23 PURSUANT TO CHAPTER 4 OF THIS TITLE AND THE PERSON IS OPERATING A VEHICLE  
24 WITHOUT A FUNCTIONING CERTIFIED IGNITION INTERLOCK DEVICE. THIS PARAGRAPH  
25 DOES NOT APPLY TO A PERSON OPERATING AN EMPLOYER'S VEHICLE OR THE OPERATION  
26 OF A VEHICLE DUE TO A SUBSTANTIAL EMERGENCY AS DEFINED IN SECTION 28-1464.

27           B. A peace officer shall cause the removal and impoundment of a  
28 vehicle if the peace officer determines that a person is driving the vehicle  
29 and if all of the following apply:

30           1. The person's driving privilege is canceled, suspended or revoked ~~or~~  
31 ~~according to department records the person has not ever been issued a driver~~  
32 ~~license or permit and the person does not produce evidence of a driver~~  
33 ~~license issued by another jurisdiction~~ FOR ANY REASON OR THE PERSON HAS NOT  
34 EVER BEEN ISSUED A DRIVER LICENSE OR PERMIT BY THIS STATE AND THE PERSON DOES  
35 NOT PRODUCE EVIDENCE OF EVER HAVING A DRIVER LICENSE OR PERMIT ISSUED BY  
36 ANOTHER JURISDICTION.

37           2. The person is not in compliance with the financial responsibility  
38 requirements of chapter 9, article 4 of this title.

39           3. The person is driving a vehicle that is involved in an accident  
40 that results in either property damage or injury to or death of another  
41 person.

42           C. Except as provided in subsection D of this section, while a peace  
43 officer has control of the vehicle the peace officer shall cause the removal  
44 and either immobilization or impoundment of the vehicle if the peace officer

1 has probable cause to arrest the driver of the vehicle for a violation of  
2 section 4-244, paragraph 33 or section 28-1382 or 28-1383.

3 D. A peace officer shall not cause the removal and either the  
4 immobilization or impoundment of a vehicle pursuant to subsection C of this  
5 section if ~~either:~~

6 ~~1.~~ all of the following apply:

7 ~~(a)~~ 1. The peace officer determines that the vehicle is currently  
8 registered and that the driver or the vehicle is in compliance with the  
9 financial responsibility requirements of chapter 9, article 4 of this title.

10 ~~(b)~~ 2. The spouse of the driver is with the driver at the time of the  
11 arrest.

12 ~~(c)~~ 3. The peace officer has reasonable grounds to believe that the  
13 spouse of the driver:

14 ~~(i)~~ (a) Has a valid driver license.

15 ~~(ii)~~ (b) Is not impaired by intoxicating liquor, any drug, a vapor  
16 releasing substance containing a toxic substance or any combination of  
17 liquor, drugs or vapor releasing substances.

18 ~~(iii)~~ (c) Does not have any spirituous liquor in the spouse's body if  
19 the spouse is under twenty-one years of age.

20 ~~(d)~~ 4. The spouse notifies the peace officer that the spouse will  
21 drive the vehicle from the place of arrest to the driver's home or other  
22 place of safety.

23 ~~(e)~~ 5. The spouse drives the vehicle as prescribed by ~~subdivision (d)~~  
24 **PARAGRAPH 4** of this ~~paragraph~~ **SUBSECTION**.

25 ~~2. The vehicle is owned by the driver's parent or guardian and the~~  
26 ~~peace officer has probable cause to arrest the driver of the vehicle for a~~  
27 ~~violation of section 4-244, paragraph 33 but not for a violation of section~~  
28 ~~28-1382 or 28-1383.~~

29 E. Except as otherwise provided in this article, a vehicle that is  
30 removed and either immobilized or impounded pursuant to subsection A, ~~or~~ B or  
31 C of this section shall be immobilized or impounded for thirty days. An  
32 insurance company does not have a duty to pay any benefits for charges or  
33 fees for immobilization or impoundment.

34 F. The owner of a vehicle that is removed and either immobilized or  
35 impounded pursuant to subsection A, ~~or~~ B or C of this section, the spouse of  
36 the owner and each person identified on the department's record with an  
37 interest in the vehicle shall be provided with an opportunity for an  
38 immobilization or poststorage hearing pursuant to section 28-3514.

39 Sec. 3. Section 28-3512, Arizona Revised Statutes, is amended to read:

40 28-3512. Release of vehicle; civil penalties; definition

41 A. An immobilizing or impounding agency shall release a vehicle to the  
42 **REGISTERED** owner before the end of the thirty day immobilization or  
43 impoundment period under any of the following circumstances:

44 1. If the vehicle is a stolen vehicle.

1           2. If the vehicle is subject to bailment and is driven by an employee  
2 of a business establishment, including a parking service or repair garage,  
3 who is subject to section 28-3511, subsection A, ~~or~~ B or C.

4           3. If the owner ~~WAS OPERATING THE VEHICLE AT THE TIME OF REMOVAL AND~~  
5 ~~EITHER IMMOBILIZATION OR IMPOUNDMENT AND~~ presents proof satisfactory to the  
6 immobilizing or impounding agency that the owner's driving privilege has been  
7 reinstated.

8           4. All of the following apply:

9           (a) The owner or the owner's agent was not the person driving the  
10 vehicle pursuant to section 28-3511, subsection A.

11           (b) The owner or the owner's agent is in the business of renting motor  
12 vehicles without drivers.

13           (c) The vehicle is registered pursuant to section 28-2166.

14           (d) ~~THERE WAS A RENTAL AGREEMENT IN EFFECT AT THE TIME OF THE~~  
15 ~~IMMOBILIZATION OR IMPOUNDMENT.~~

16           5. For the spouse of the owner or any person who is identified as an  
17 owner of the vehicle on the records of the department ~~AT THE TIME OF REMOVAL~~  
18 ~~AND EITHER IMMOBILIZATION OR IMPOUNDMENT~~, if the spouse or person was not the  
19 driver of the vehicle at the time of removal and either immobilization or  
20 impoundment and the spouse or person enters into an agreement with the  
21 immobilizing or impounding agency that stipulates that if the spouse or  
22 person allows ~~an unlicensed~~ A driver ~~WHO DOES NOT HAVE A VALID DRIVING~~  
23 ~~PRIVILEGE~~ or a driver ~~arrested in violation of section 4-244, paragraph 33 or~~  
24 ~~section 28-1382 or 28-1383 to drive~~ WHO COMMITS A VIOLATION THAT CAUSES the  
25 spouse's or person's vehicle ~~TO BE REMOVED AND EITHER IMMOBILIZED OR~~  
26 ~~IMPOUNDED PURSUANT TO THIS ARTICLE~~ within one year after ~~the~~ ANY agreement is  
27 signed ~~BY AN IMMOBILIZING OR IMPOUNDING AGENCY~~, the spouse or person will not  
28 be eligible to obtain release of the spouse's or person's vehicle before the  
29 end of the thirty day immobilization or impoundment period.

30           B. A vehicle shall not be released pursuant to subsection A of this  
31 section except ~~on order of a justice court, immobilizing agency or impounding~~  
32 ~~agency~~ pursuant to an immobilization or a poststorage hearing under section  
33 28-3514 or ~~on presentation of~~ IF ALL OF THE FOLLOWING ARE PRESENTED TO THE  
34 IMMOBILIZING OR IMPOUNDING AGENCY:

35           1. The owner's or owner's spouse's currently valid driver license ~~to~~  
36 ~~operate the vehicle and~~ ISSUED BY THIS STATE OR THE OWNER'S OR OWNER'S  
37 SPOUSE'S STATE OF DOMICILE.

38           2. Proof of current vehicle registration ~~and,~~ OR A VALID SALVAGE OR  
39 DISMANTLE CERTIFICATE OF TITLE.

40           3. PROOF THAT THE VEHICLE IS IN COMPLIANCE WITH THE FINANCIAL  
41 RESPONSIBILITY REQUIREMENTS OF CHAPTER 9, ARTICLE 4 OF THIS TITLE.

42           4. If the driving privilege of the person driving the vehicle was  
43 suspended due to a previous conviction for driving under the influence  
44 pursuant to section 28-1381, subsection K, paragraph 4, section 28-1382 or  
45 section 28-1383 and a certified ignition interlock device was required to be

1 installed on the vehicle, ~~on presentation of~~ OR THE PERSON IS REQUIRED BY THE  
2 DEPARTMENT TO INSTALL A CERTIFIED IGNITION INTERLOCK DEVICE ON THE VEHICLE  
3 proof of installation of a functioning certified ignition interlock device in  
4 the vehicle. The impounding agency, storage yard, facility, person or agency  
5 having physical possession of the vehicle shall allow access DURING NORMAL  
6 BUSINESS HOURS to the impounded vehicle for the purpose of installing a  
7 certified ignition interlock device. The impounding agency, storage yard,  
8 facility, person or agency having physical possession of the vehicle shall  
9 not charge ~~a~~ ANY fee OR REQUIRE COMPENSATION for providing access to the  
10 vehicle or for the installation of the certified ignition interlock device.

11 C. The owner OR THE OWNER'S SPOUSE IF THE VEHICLE IS RELEASED TO THE  
12 OWNER'S SPOUSE is responsible for paying all immobilization, towing and  
13 storage charges related to the immobilization or impoundment of the vehicle  
14 and any administrative charges established pursuant to section 28-3513,  
15 unless EITHER OF THE FOLLOWING APPLIES:

16 1. The vehicle is stolen and the theft was reported to the appropriate  
17 law enforcement agency. If the vehicle is stolen and the theft was reported  
18 to the appropriate law enforcement agency, the operator of the vehicle at the  
19 time of immobilization or impoundment is responsible for all immobilization,  
20 towing, storage and administrative charges.

21 2. THE VEHICLE IS IMMOBILIZED OR IMPOUNDED IN VIOLATION OF THIS  
22 ARTICLE. IF THE VEHICLE IS IMMOBILIZED OR IMPOUNDED IN VIOLATION OF THIS  
23 ARTICLE, THE IMMOBILIZATION OR IMPOUNDING AGENCY IS RESPONSIBLE FOR ALL  
24 IMMOBILIZING, TOWING, STORAGE AND ADMINISTRATIVE CHARGES.

25 D. The immobilizing or impounding agency shall release a vehicle to a  
26 person, other than the owner, identified on the department's record as having  
27 an interest in the vehicle before the end of the thirty day immobilization or  
28 impoundment period if all of the following conditions are met:

29 1. The person is EITHER OF THE FOLLOWING:

30 (a) IN THE BUSINESS OF RENTING MOTOR VEHICLES WITHOUT DRIVERS AND THE  
31 VEHICLE IS REGISTERED PURSUANT TO SECTION 28-2166.

32 (b) A motor vehicle dealer, bank, credit union or acceptance  
33 corporation or any other licensed financial institution legally operating in  
34 this state or is another person who is not the owner and who holds a security  
35 interest in the vehicle.

36 2. The person pays all immobilization, towing and storage ~~fees~~ CHARGES  
37 related to the immobilization or impoundment of the vehicle AND ANY  
38 ADMINISTRATIVE CHARGES ESTABLISHED PURSUANT TO SECTION 28-3513 unless EITHER  
39 OF THE FOLLOWING APPLIES:

40 (a) The vehicle is stolen and the theft was reported to the  
41 appropriate law enforcement agency. If the vehicle is stolen and the theft  
42 was reported to the appropriate law enforcement agency, the operator of the  
43 vehicle at the time of immobilization or impoundment is responsible for all  
44 immobilization, towing, storage and administrative charges.

1 (b) THE VEHICLE IS IMMOBILIZED OR IMPOUNDED IN VIOLATION OF THIS  
2 ARTICLE. IF THE VEHICLE IS IMMOBILIZED OR IMPOUNDED IN VIOLATION OF THIS  
3 ARTICLE, THE IMMOBILIZATION OR IMPOUNDING AGENCY IS RESPONSIBLE FOR ALL  
4 IMMOBILIZING, TOWING, STORAGE AND ADMINISTRATIVE CHARGES.

5 3. The person presents foreclosure documents or an affidavit of  
6 repossession of the vehicle.

7 4. THE PERSON REQUESTING RELEASE OF THE VEHICLE WAS NOT THE PERSON  
8 DRIVING THE VEHICLE AT THE TIME OF REMOVAL AND IMMOBILIZATION OR IMPOUNDMENT.

9 E. Before a person described in subsection D of this section releases  
10 the vehicle TO THE OWNER WHO WAS OPERATING THE VEHICLE AT THE TIME OF REMOVAL  
11 AND IMMOBILIZATION OR IMPOUNDMENT, the person DESCRIBED IN SUBSECTION D OF  
12 THIS SECTION SHALL REQUIRE THE OWNER TO PRESENT AND SHALL RETAIN FOR A PERIOD  
13 OF AT LEAST THREE YEARS FROM THE DATE OF RELEASING THE VEHICLE A COPY OF ALL  
14 OF THE FOLLOWING:

15 1. A DRIVER LICENSE ISSUED BY THIS STATE OR THE OWNER'S OR OWNER'S  
16 AGENT'S STATE OF DOMICILE.

17 2. A CURRENT VEHICLE REGISTRATION OR A VALID SALVAGE OR DISMANTLE  
18 CERTIFICATE OF TITLE.

19 3. EVIDENCE THAT THE VEHICLE IS IN COMPLIANCE WITH THE FINANCIAL  
20 RESPONSIBILITY REQUIREMENTS OF CHAPTER 9, ARTICLE 4 OF THIS TITLE.

21 F. THE PERSON DESCRIBED IN SUBSECTION D OF THIS SECTION may require  
22 the owner to pay charges that the person incurred in connection with  
23 obtaining custody of the vehicle, including all immobilization, towing and  
24 storage charges that are related to the immobilization or impoundment of the  
25 vehicle and any administrative charges that are established pursuant to  
26 section 28-3513.

27 G. A vehicle shall not be released after the end of the thirty day  
28 immobilization or impoundment period ~~except on presentation of~~ UNLESS the  
29 ~~owner's or owner's agent's currently~~ OWNER OR OWNER'S AGENT PRESENTS ALL OF  
30 THE FOLLOWING TO THE IMPOUNDING OR IMMOBILIZING AGENCY:

31 1. A valid driver license ~~to operate the vehicle and proof of current~~  
32 ~~vehicle registration and,~~ ISSUED BY THIS STATE OR BY THE OWNER'S OR OWNER'S  
33 AGENT'S STATE OF DOMICILE.

34 2. A CURRENT VEHICLE REGISTRATION OR A VALID SALVAGE OR DISMANTLE  
35 CERTIFICATE OF TITLE.

36 3. EVIDENCE THAT THE VEHICLE IS IN COMPLIANCE WITH THE FINANCIAL  
37 RESPONSIBILITY REQUIREMENTS OF CHAPTER 9, ARTICLE 4 OF THIS TITLE.

38 4. If the driving privilege of the person driving the vehicle was  
39 suspended due to a previous conviction for driving under the influence  
40 pursuant to section 28-1381, subsection K, paragraph 4, section 28-1382 or  
41 section 28-1383 and a certified ignition interlock device was required to be  
42 installed on the vehicle, ~~on presentation of~~ proof of installation of a  
43 functioning certified ignition interlock device in the vehicle. The  
44 impounding agency, storage yard, facility, person or agency having physical  
45 possession of the vehicle shall allow access DURING NORMAL BUSINESS HOURS to

1 the impounded vehicle for the purpose of installing a certified ignition  
2 interlock device. The impounding agency, storage yard, facility, person or  
3 agency having physical possession of the vehicle shall not charge ~~a~~ ANY fee  
4 OR REQUIRE COMPENSATION for providing access to the vehicle or for the  
5 installation of the certified ignition interlock device.

6 ~~G.~~ H. The storage charges relating to the impoundment of a vehicle  
7 pursuant to this section shall ~~either~~:

8 ~~1.~~ be subject to a contractual agreement between the impounding agency  
9 and a towing firm for storage services pursuant to section 28-1108 BUT  
10 SHALL—

11 ~~2.~~ not exceed fifteen dollars for each day of storage.

12 ~~H.~~ I. The immobilizing or impounding agency shall have no lien or  
13 possessory interest in a stolen vehicle if the theft was reported to the  
14 appropriate law enforcement agency. The immobilizing or impounding agency  
15 shall release the vehicle to the owner or person other than the owner as  
16 identified in subsection D of this section even if the operator at the time  
17 of immobilization or impoundment has not paid all immobilization, towing,  
18 storage and administrative ~~fees~~ CHARGES.

19 J. A PERSON WHO ENTERS INTO AN AGREEMENT PURSUANT TO SUBSECTION A,  
20 PARAGRAPH 5 OF THIS SECTION AND WHO ALLOWS ANOTHER PERSON TO OPERATE THE  
21 VEHICLE IN VIOLATION OF THE AGREEMENT IS RESPONSIBLE FOR A CIVIL TRAFFIC  
22 VIOLATION AND SHALL PAY A CIVIL PENALTY OF AT LEAST TWO HUNDRED FIFTY  
23 DOLLARS.

24 K. A PERSON DESCRIBED IN SUBSECTION D, PARAGRAPH 1 OF THIS SECTION WHO  
25 VIOLATES SUBSECTION E OF THIS SECTION IS RESPONSIBLE FOR A CIVIL TRAFFIC  
26 VIOLATION AND SHALL PAY A CIVIL PENALTY OF AT LEAST TWO HUNDRED FIFTY  
27 DOLLARS.

28 ~~I.~~ L. For the purposes of this section, "certified ignition interlock  
29 device" has the same meaning prescribed in section 28-1301.

30 Sec. 4. Section 28-3513, Arizona Revised Statutes, is amended to read:

31 ~~28-3513.~~ Administrative charges

32 A. The immobilizing or impounding agency shall establish procedures  
33 for immobilization hearings or poststorage hearings, for the release of  
34 properly immobilized or impounded vehicles and for imposition of a charge  
35 ~~equal to the~~ FOR administrative costs relating to the removal,  
36 immobilization, impoundment, storage or release of a vehicle. The  
37 immobilizing or impounding agency may waive the administrative charges.

38 B. The administrative charges established pursuant to this section  
39 shall not exceed one hundred fifty dollars.

40 C. The immobilizing or impounding agency shall collect any  
41 administrative charges at the time of the release of the vehicle unless the  
42 vehicle is stolen and the theft was reported to the appropriate law  
43 enforcement agency. If the vehicle is stolen and the theft was reported to  
44 the appropriate law enforcement agency, the operator of the vehicle at the



1 time of immobilization or impoundment is responsible for all towing,  
2 immobilization, storage and administrative charges.

3 D. The administrative charges established pursuant to this section are  
4 in addition to any other immobilization, impoundment or storage charges.

5 E. A justice court providing an immobilization or poststorage hearing  
6 may collect a fee equal to the fee established pursuant to section 22-281 for  
7 a small claims answer.

8 F. IF THE IMMOBILIZING OR IMPOUNDING AGENCY IS:

9 1. A MUNICIPALITY, THE ADMINISTRATIVE CHARGES COLLECTED PURSUANT TO  
10 THIS SECTION SHALL BE TRANSMITTED TO THE CITY TREASURER FOR DEPOSIT IN A  
11 SPECIAL FUND ESTABLISHED BY THE MUNICIPALITY FOR THE PURPOSE OF IMPLEMENTING  
12 SECTION 28-872 AND THIS ARTICLE.

13 2. A COUNTY, THE ADMINISTRATIVE CHARGES COLLECTED PURSUANT TO THIS  
14 SECTION SHALL BE TRANSMITTED TO THE COUNTY TREASURER FOR DEPOSIT IN A SPECIAL  
15 FUND ESTABLISHED BY THE COUNTY FOR THE PURPOSE OF IMPLEMENTING SECTION 28-872  
16 AND THIS ARTICLE.

17 3. THE DEPARTMENT OF PUBLIC SAFETY, THE ADMINISTRATIVE CHARGES  
18 COLLECTED PURSUANT TO THIS SECTION SHALL BE DEPOSITED, PURSUANT TO SECTIONS  
19 35-146 AND 35-147, IN THE ARIZONA HIGHWAY PATROL FUND ESTABLISHED BY SECTION  
20 41-1752.

21 Sec. 5. Section 28-3514, Arizona Revised Statutes, is amended to read:

22 28-3514. Hearings; notice of immobilization or storage

23 A. If a peace officer removes and either immobilizes or impounds a  
24 vehicle pursuant to section 28-3511, the immobilizing or impounding agency  
25 may provide the owner, the spouse of the owner and any other person  
26 identified on the department's record as having an interest in the vehicle  
27 with the opportunity for an immobilization or poststorage hearing to  
28 determine the validity of the immobilization or storage or consider any  
29 mitigating circumstances relating to the immobilization or storage or release  
30 of the vehicle before the end of the thirty day immobilization or impoundment  
31 period. If the immobilizing or impounding agency provides the opportunity  
32 for an immobilization or poststorage hearing, the immobilizing or impounding  
33 agency shall conduct the hearing in accordance with any of the following:

34 1. In the immobilizing or impounding agency's jurisdiction.

35 2. Telephonically.

36 3. Pursuant to procedures prescribed by the immobilizing or impounding  
37 agency to transfer the authority to conduct the immobilization or poststorage  
38 hearing to a law enforcement agency in the jurisdiction in which the owner,  
39 the spouse of the owner, the owner's agent or any person identified in the  
40 department's record as having an interest in the vehicle resides.

41 B. If the immobilizing or impounding agency does not provide an  
42 opportunity for an immobilization or poststorage hearing, a justice court  
43 shall conduct the immobilization or poststorage hearing. If an  
44 immobilization or poststorage hearing is conducted by a justice court, the  
45 immobilizing or impounding agency shall appear and show evidence.

1 Immobilization or poststorage hearings conducted by a justice court shall be  
2 considered as civil filings for the purposes of judicial productivity  
3 credits.

4 C. Within ~~two-working~~ THREE BUSINESS days after immobilization or  
5 impoundment, EXCLUDING WEEKENDS AND HOLIDAYS, the immobilizing or impounding  
6 agency shall send a notice of storage by first class mail to each person,  
7 other than the owner, identified on the department's record as having an  
8 interest in the vehicle. Service of notice of immobilization or storage is  
9 complete on mailing. If the immobilizing or impounding agency fails to  
10 notify a person, other than the owner, identified on the department's record  
11 as having an interest in the vehicle within ~~two-working~~ THREE BUSINESS days  
12 after immobilization or impoundment, EXCLUDING WEEKENDS AND HOLIDAYS, the  
13 immobilizing agency or the person in possession of the vehicle shall not  
14 charge more than fifteen days' immobilization or impoundment when the person  
15 redeems the impounded vehicle or has the immobilization device removed from  
16 the vehicle.

17 D. Within ~~two-working~~ THREE BUSINESS days after immobilization or  
18 impoundment, EXCLUDING WEEKENDS AND HOLIDAYS, the immobilizing or impounding  
19 agency shall mail or personally deliver notice of immobilization or storage  
20 to the owner of the vehicle.

21 E. The notice of immobilization or storage shall include all of the  
22 following information:

23 1. A statement that the vehicle was immobilized or impounded.

24 2. The name, address and telephone number of the immobilizing or  
25 impounding agency providing the notice.

26 3. The name, address and telephone number of the immobilizing or  
27 impounding agency or justice court that will provide the immobilization or  
28 poststorage hearing.

29 4. The location of the place of storage and a description of the  
30 vehicle, including, if available, the manufacturer, model, license plate  
31 number and mileage of the vehicle.

32 5. A statement that in order to receive an immobilization or  
33 poststorage hearing the owner, the spouse of the owner, the owner's agent or  
34 the person identified in the department's record as having an interest in the  
35 vehicle, within ten days after the date on the notice, shall request an  
36 immobilization or poststorage hearing by contacting the immobilizing or  
37 impounding agency in person or in writing or by filing a request with the  
38 justice court IF THE IMPOUNDING AGENCY DOES NOT PROVIDE FOR A HEARING and  
39 paying a fee equal to the fee established pursuant to section 22-281 for a  
40 small claims answer.

41 6. A statement that if the immobilizing or impounding agency does not  
42 provide the opportunity for an immobilization or poststorage hearing, the  
43 owner, the spouse of the owner, the owner's agent or any person identified in  
44 the department's record as having an interest in the vehicle may request that  
45 the immobilization or poststorage hearing be conducted by a justice court in

1 the immobilizing or impounding agency's jurisdiction or the jurisdiction in  
2 which the owner, the spouse of the owner, the owner's agent or the person  
3 identified in the department's record as having an interest in the vehicle  
4 resides.

5 F. The immobilization or poststorage hearing shall be conducted by the  
6 immobilizing or impounding agency or justice court within five ~~working~~  
7 ~~BUSINESS~~ days, ~~EXCLUDING WEEKENDS AND HOLIDAYS~~, after receipt of the request.

8 G. Failure of the owner, the spouse of the owner or other person or  
9 the other person's agent to request ~~AN IMMOBILIZATION OR POSTSTORAGE HEARING~~  
10 ~~WITHIN TEN DAYS AFTER THE DATE ON THE NOTICE PRESCRIBED IN SUBSECTION E OF~~  
11 ~~THIS SECTION~~ or to attend a scheduled hearing satisfies the immobilization or  
12 poststorage hearing requirement.

13 H. The immobilizing or impounding agency employing the person who  
14 directed the immobilization or storage is responsible for the costs incurred  
15 for immobilization, towing and storage if it is determined in the  
16 immobilization or poststorage hearing that reasonable grounds for the  
17 immobilization or impoundment and storage are not established.

18 I. ~~IN COMPLIANCE WITH THE REQUIREMENTS OF THIS SECTION, THE VEHICLE~~  
19 ~~OWNER, THE VEHICLE OWNER'S SPOUSE OR OTHER PERSON HAVING AN INTEREST IN THE~~  
20 ~~VEHICLE SHALL HAVE AN OPPORTUNITY FOR A SINGLE POSTSTORAGE HEARING FOR THE~~  
21 ~~RELEASE OF THE VEHICLE BY EITHER THE IMMOBILIZING OR IMPOUNDING AGENCY OR A~~  
22 ~~JUSTICE COURT BUT NOT BOTH.~~

23 Sec. 6. Section 28-3515, Arizona Revised Statutes, is amended to read:

24 ~~28-3515.~~ Unclaimed vehicles

25 If a claim has not been made for the return or possession of the  
26 vehicle by a person legally entitled to the vehicle within thirty days after  
27 a vehicle is impounded pursuant to this article, the person who has  
28 possession of the vehicle shall submit an abandoned vehicle report as  
29 provided in section 28-4838. ~~THE IMMOBILIZING OR IMPOUNDING AGENCY SHALL~~  
30 ~~REQUIRE THE PERSON WHO TAKES POSSESSION OF A VEHICLE PURSUANT TO THIS SECTION~~  
31 ~~TO OBTAIN A RELEASE FOR THE VEHICLE FROM THE IMMOBILIZING OR IMPOUNDING~~  
32 ~~AGENCY.~~

33 Sec. 7. Title 28, chapter 8, article 9, Arizona Revised Statutes, is  
34 amended by adding section 28-3516, to read:

35 ~~28-3516.~~ Access to impounded vehicle; ignition interlock device  
36 manufacturer or installer; device removal; fee  
37 prohibited; violation; classification

38 A. ~~THE IMPOUNDING AGENCY, STORAGE YARD, FACILITY, PERSON OR AGENCY~~  
39 ~~HAVING PHYSICAL POSSESSION OF A VEHICLE IMPOUNDED PURSUANT TO THIS ARTICLE OR~~  
40 ~~SECTION 28-872, OR A VEHICLE FOR WHICH A CLAIM HAS BEEN FILED PURSUANT TO~~  
41 ~~CHAPTER 11 OF THIS TITLE, SHALL PROVIDE ACCESS TO A PERSON CERTIFIED BY THE~~  
42 ~~DEPARTMENT AS AN IGNITION INTERLOCK DEVICE MANUFACTURER OR INSTALLER DURING~~  
43 ~~NORMAL BUSINESS HOURS FOR THE PURPOSE OF REMOVING THE DEVICE FROM THE~~  
44 ~~VEHICLE.~~

1           B. AFTER COMPLYING WITH SUBSECTION C, PARAGRAPHS 1, 2 AND 3 OF THIS  
2 SECTION, A CERTIFIED IGNITION INTERLOCK DEVICE INSTALLER WHO IS DENIED ACCESS  
3 TO A VEHICLE BY THE STORAGE YARD, FACILITY, PERSON OR AGENCY HAVING PHYSICAL  
4 POSSESSION OF THE VEHICLE MAY REPORT THE DENIAL TO THE IMPOUNDING AGENCY AND  
5 REQUEST ASSISTANCE FROM THE IMPOUNDING AGENCY TO OBTAIN ACCESS TO THE VEHICLE  
6 FOR THE PURPOSE OF REMOVING AN IGNITION INTERLOCK DEVICE FROM THE VEHICLE.  
7 ON REQUEST, THE IMPOUNDING AGENCY SHALL PROVIDE ASSISTANCE TO THE IGNITION  
8 INTERLOCK DEVICE INSTALLER OR MANUFACTURER IN OBTAINING ACCESS TO THE VEHICLE  
9 WITHIN FIVE BUSINESS DAYS.

10           C. IT IS UNLAWFUL FOR THE PERSON IN POSSESSION OF THE VEHICLE AS  
11 PRESCRIBED IN SUBSECTION A OF THIS SECTION TO CHARGE ANY FEE OR REQUIRE  
12 COMPENSATION FOR PROVIDING ACCESS TO A VEHICLE ON PRESENTATION OF THE  
13 FOLLOWING:

14           1. AN ORIGINAL, COPY OR FAX OF THE PERSON'S CERTIFICATION AS AN  
15 IGNITION INTERLOCK DEVICE MANUFACTURER OR INSTALLER BY THE DEPARTMENT.

16           2. A SIGNED CONTRACT INDICATING THE MAKE, MODEL OR OTHER IDENTIFYING  
17 INDICIA OF THE DEVICE THE PERSON IS REQUESTING TO REMOVE.

18           3. THE PERSON'S SIGNED REQUEST FOR ACCESS TO A SPECIFIC VEHICLE OR  
19 VEHICLES FOR THE PURPOSE OF REMOVING THE DEVICE OR DEVICES FROM THE VEHICLE.

20           D. A PERSON WHO VIOLATES SUBSECTION C OF THIS SECTION IS GUILTY OF A  
21 CLASS 2 MISDEMEANOR.

22           Sec. 8. Section 41-1752, Arizona Revised Statutes, is amended to read:

23           41-1752. Arizona highway patrol fund

24           A. An Arizona highway patrol fund is established.

25           B. The Arizona highway patrol fund consists of:

26           1. Monies distributed to the fund from the Arizona highway user  
27 revenue fund by the legislature subject to section 28-6537.

28           2. Miscellaneous service fees.

29           3. Rewards.

30           4. Awards.

31           5. Insurance recoveries.

32           6. Receipts from the sale or disposal of any property held by the  
33 Arizona highway patrol or purchased with Arizona highway patrol monies.

34           7. Monies received from the public safety personnel retirement system  
35 pursuant to section 20-224.01.

36           8. MONIES DEPOSITED PURSUANT TO SECTION 28-3513.

37           C. Subject to legislative appropriation, the patrol superintendent  
38 shall administer and spend monies in the Arizona highway patrol fund in  
39 conformity with the laws governing state financial operations.

40           D. Monies in the Arizona highway patrol fund:

41           1. Do not revert to the state general fund or Arizona highway user  
42 revenue fund.

43           2. Are exempt from the provisions of section 35-190 relating to  
44 lapsing of appropriations.

1           E. Subject to legislative appropriation, monies in the Arizona highway  
2 patrol fund shall be used to administer the provisions of law relating to the  
3 highway patrol and the Arizona highway patrol reserve and all matters  
4 pertaining to those laws, except that monies received pursuant to subsection  
5 B, paragraph 7 of this section shall be used for the department of public  
6 safety.